

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF HORIZON CELLULAR)	
TELEPHONE COMPANY OF SPENCER, L.P.,)	
A DELAWARE LIMITED PARTNERSHIP, FOR)	CASE NO. 93-345
AUTHORITY TO ASSUME CERTAIN)	
LIABILITIES)	

O R D E R

This matter arising upon petition of Horizon Cellular Telephone Company of Spencer, L.P. ("Horizon Cellular"), filed November 1, 1993, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the terms of a credit agreement on the grounds that disclosure of the information is likely to cause Horizon Cellular competitive injury and it appearing to this Commission as follows:

As part of its response to the Commission's Order of October 5, 1993, Horizon Cellular has filed a copy of a credit agreement between Horizon Cellular Telephone Company L.P. and Horizon Finance Corporation as borrowers and various financial institutions as lenders. Horizon Cellular, pursuant to a subsidiary guaranty has guaranteed the obligations of the borrowers, and by this petition seeks to protect portions of the credit agreement from public disclosure.

The information sought to be protected consists of negotiated terms of the revolving credit, operating restrictions and requirements imposed on Horizon Cellular Telephone Company L.P., and information concerning Horizon Cellular Telephone Company's

business affairs. Horizon Cellular and Horizon Cellular Telephone Company, L.P. have consistently treated the information as confidential and have strictly limited the distribution of the information to those employees who need access in order to conduct the business of Horizon Cellular and Horizon Cellular Telephone Company, L.P.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Although the petition alleges that disclosure of the information will enable competitors to learn vital business information concerning Horizon Cellular and Horizon Cellular Telephone Company, L.P., it does not demonstrate how competitors could use this information to Horizon Cellular and Horizon Cellular Telephone Company L.P.'s business detriment. Therefore, the

petition does not establish that the information is entitled to protection and the petition should be denied.

This Commission being otherwise sufficiently advised,


IT IS ORDERED that:


1. The petition to protect as confidential certain portions of the credit agreement between Horizon Cellular Telephone Company L.P. and Horizon Finance Corporation be and is hereby denied.

2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record without further Orders herein.

Done at Frankfort, Kentucky, this 23rd day of November, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director